

REFERENCE TITLE: dental board; omnibus

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1079

Introduced by
Senator Allen; Representatives Quelland: Burton Cahill

AN ACT

AMENDING SECTIONS 32-1201, 32-1207, 32-1231, 32-1232, 32-1235, 32-1236, 32-1264, 32-1281, 32-1287 AND 32-1297.06, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 11, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1292.02; AMENDING TITLE 32, CHAPTER 11, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1297.10; RELATING TO THE STATE DENTAL BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-1201, Arizona Revised Statutes, is amended to
3 read:

4 32-1201. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Auxiliary personnel" means all dental assistants, dental
7 technicians, dental x-ray technicians and other persons employed by dentists
8 or firms and businesses providing dental services to dentists.

9 2. "Board" means the state board of dental examiners.

10 3. "Dental assistant" means any person who acts as an assistant to a
11 dentist or a dental hygienist by rendering personal services to a patient
12 that involve close proximity to the patient while the patient is under
13 treatment or observation or undergoing diagnostic procedures.

14 4. "Dental hygienist" means any person licensed and engaged in the
15 general practice of dental hygiene and all related and associated duties
16 including educational, clinical and therapeutic dental hygiene procedures.

17 5. "Dental incompetence" means lacking in sufficient dentistry
18 knowledge or skills, or both, in that field of dentistry in which the
19 dentist, denturist or dental hygienist concerned engages, to a degree likely
20 to endanger the health of that person's patients.

21 6. "Dental laboratory technician" means any person, other than a
22 licensed dentist, who, pursuant to a written work order of a dentist,
23 fabricates artificial teeth, prosthetic appliances or other mechanical and
24 artificial contrivances designed to correct or alleviate injuries or defects,
25 both developmental and acquired, disorders or deficiencies of the human oral
26 cavity, teeth, investing tissues, maxilla or mandible or adjacent associated
27 structures.

28 7. "Dental x-ray laboratory technician" means any person, other than a
29 licensed dentist, who, pursuant to a written work order of a dentist,
30 performs dental and maxillofacial radiography including cephalometrics,
31 panoramic and maxillofacial tomography and other dental related
32 non-fluoroscopic diagnostic imaging modalities.

33 8. "Dentistry", "dentist" and "dental" means the general practice of
34 dentistry and all specialties or restricted practices of dentistry.

35 9. "Denturist" means a person practicing denture technology pursuant
36 to article 5 of this chapter.

37 10. "Disciplinary action" means regulatory sanctions that are imposed
38 by the board in combination with, or as an alternative to, revocation or
39 suspension of a license and that may include:

40 (a) Imposition of an administrative penalty in an amount not to exceed
41 two thousand dollars for each violation of this chapter or rules adopted
42 under this chapter.

43 (b) Imposition of restrictions on the scope of practice.

44 (c) Imposition of peer review and professional education requirements.

1 (d) Imposition of censure or probation requirements best adapted to
2 protect the public welfare, which may include a requirement for restitution
3 to the patient resulting from violations of this chapter or rules adopted
4 under this chapter.

5 11. "Irregularities in billing" means:

6 (a) Reporting excessive charges for the purpose of obtaining payment
7 not earned.

8 (b) Reporting charges for services not rendered.

9 (c) Incorrectly reporting services rendered for the purpose of
10 obtaining payment not earned.

11 (d) Abrogating the copayment provisions of a dental insurance contract
12 by waiving all or a part of the copayment from the patient if this results in
13 an excessive or fraudulent charge to a third party.

14 (e) Any other practice in billing that results in excessive or
15 fraudulent charges to the patient.

16 12. "Letter of concern" means an advisory letter to notify a licensee
17 that, while the evidence does not warrant disciplinary action, the board
18 believes that the licensee should modify or eliminate certain practices and
19 that continuation of the activities that led to the information being
20 submitted to the board may result in board action against the practitioner's
21 license. A letter of concern is not a disciplinary action. A letter of
22 concern is a public document and may be used in a future disciplinary action.

23 13. "Licensed" means licensed pursuant to this chapter.

24 14. "PRIMARY MAILING ADDRESS" MEANS THE ADDRESS ON FILE WITH THE BOARD
25 AND TO WHICH OFFICIAL BOARD CORRESPONDENCE, NOTICES OR DOCUMENTS ARE
26 DELIVERED IN A MANNER DETERMINED BY THE BOARD.

27 ~~14.~~ 15. "Recognized dental hygiene school" means a school that has a
28 dental hygiene program with a minimum two academic year curriculum, or the
29 equivalent of four semesters, and that is approved by the board and
30 accredited by the American dental association commission on dental
31 accreditation.

32 ~~15.~~ 16. "Recognized dental school" means a dental school accredited by
33 the American dental association commission on dental accreditation.

34 ~~16.~~ 17. "Recognized denturist school" means a denturist school
35 ~~maintaining~~ THAT MAINTAINS standards of entrance, study and graduation AND
36 that is accredited by the United States department of education or the
37 council on higher education accreditation.

38 ~~17.~~ 18. "Supervised personnel" means all dental hygienists, dental
39 assistants, dental laboratory technicians, denturists, dental x-ray
40 laboratory technicians and other persons supervised by licensed dentists.

41 ~~18.~~ 19. "Unprofessional conduct" means the following acts, whether
42 occurring in this state or elsewhere:

43 (a) Intentional betrayal of a professional confidence or intentional
44 violation of a privileged communication except as either of these may
45 otherwise be required by law. This subdivision does not prevent members of

1 the board from the full and free exchange of information with the licensing
2 and disciplinary boards of other states, territories or districts of the
3 United States or foreign countries, with the Arizona state dental association
4 or any of its component societies or with the dental societies of other
5 states, counties, districts, territories or foreign countries.

6 (b) Using controlled substances as defined in section 36-2501,
7 narcotic drugs, dangerous drugs or marijuana as defined in section 13-3401,
8 or hypnotic drugs, including acetylurea derivatives, barbituric acid
9 derivatives, chloral, paraldehyde, phenylhydantoin derivatives, sulfonmethane
10 derivatives or any compounds, mixtures or preparations that may be used for
11 producing hypnotic effects, or alcohol to the extent that it affects the
12 ability of the dentist, denturist or dental hygienist to practice that
13 person's profession.

14 (c) Prescribing, dispensing or using drugs for other than accepted
15 dental therapeutic purposes or for other than medically indicated supportive
16 therapy in conjunction with managing a patient's dental needs.

17 (d) Gross malpractice, or repeated acts constituting malpractice.

18 (e) Acting or assuming to act as a member of the board if this is not
19 true.

20 (f) Procuring or attempting to procure a certificate of the national
21 board of dental examiners or a license to practice dentistry or dental
22 hygiene by fraud or misrepresentation or by knowingly taking advantage of the
23 mistake of another.

24 (g) Having professional connection with or lending one's name to an
25 illegal practitioner of dentistry or any of the other healing arts.

26 (h) Representing that a manifestly not correctable condition, disease,
27 injury, ailment or infirmity can be permanently corrected, or that a
28 correctable condition, disease, injury, ailment or infirmity can be corrected
29 within a stated time, if this is not true.

30 (i) Offering, undertaking or agreeing to correct, cure or treat a
31 condition, disease, injury, ailment or infirmity by a secret means, method,
32 device or instrumentality.

33 (j) Refusing to divulge to the board, on reasonable notice and demand,
34 the means, method, device or instrumentality used in the treatment of a
35 condition, disease, injury, ailment or infirmity.

36 (k) Giving or receiving, or aiding or abetting the giving or
37 receiving, of rebates, either directly or indirectly.

38 (l) Knowingly making any false or fraudulent statement, written or
39 oral, in connection with the practice of dentistry.

40 (m) Refusal, revocation or suspension of a license or any other
41 disciplinary action taken against a dentist by, or the voluntary surrender of
42 a license in lieu of disciplinary action to, any other state, territory,
43 district or country, unless the board finds that this action was not taken
44 for reasons that relate to the person's ability to safely and skillfully
45 practice dentistry or to any act of unprofessional conduct.

1 (n) Any conduct or practice that constitutes a danger to the health,
2 welfare or safety of the patient or the public.

3 (o) Obtaining a fee by fraud or misrepresentation, or ~~willfully~~
4 ~~WILFULLY~~ or intentionally filing a fraudulent claim with a third party for
5 services rendered or to be rendered to a patient.

6 (p) Repeated irregularities in billing.

7 (q) Employing unlicensed persons to perform or aiding and abetting
8 unlicensed persons in the performance of work that can be done legally only
9 by licensed persons.

10 (r) Practicing dentistry under a false or assumed name in this state,
11 other than as allowed by section 32-1262.

12 (s) ~~Willfully~~ ~~WILFULLY~~ or intentionally causing or permitting
13 supervised personnel or auxiliary personnel operating under the licensee's
14 supervision to commit illegal acts or perform an act or operation other than
15 that permitted under article 4 of this chapter and rules adopted by the board
16 pursuant to section 32-1282.

17 (t) Violating or attempting to violate, directly or indirectly, or
18 assisting or abetting the violation of or conspiring to violate any of the
19 provisions of this chapter or any rule adopted by the board.

20 (u) The following advertising practices:

21 (i) The publication or circulation, directly or indirectly, of any
22 false, fraudulent or misleading statements concerning the skill, methods or
23 practices of the licensee or of any other person.

24 (ii) Advertising in any manner that tends to deceive or defraud the
25 public.

26 (v) Failing to dispense drugs and devices in compliance with article 6
27 of this chapter.

28 (w) Failing to comply with a final board order, including an order of
29 censure or probation.

30 (x) Failing to comply with a board subpoena in a timely manner.

31 (y) Failing or refusing to maintain adequate patient records.

32 (z) Failing to allow properly authorized board personnel, on demand,
33 to ~~INSPECT THE PREMISES AND~~ examine and have access to documents, ~~BOOKS~~,
34 reports and records maintained by the licensee or certificate holder that
35 relate to the dental practice or dentally related activity.

36 (aa) Refusing to submit to a body fluid examination as required
37 through a monitored treatment program or pursuant to a board investigation
38 into a licensee's or certificate holder's alleged substance abuse.

39 (bb) Failing to inform a patient of the type of material the dentist
40 will use in the patient's dental filling and the reason why the dentist is
41 using that particular filling.

42 Sec. 2. Section 32-1207, Arizona Revised Statutes, is amended to read:
43 32-1207. Powers and duties

44 A. The board shall:

1 1. Adopt rules not inconsistent with this chapter for the regulation
2 of its own conduct, for holding examinations and for regulating the practice
3 of dentists and supervised personnel, provided:

4 (a) Regulation of supervised personnel ~~shall be~~ IS based on the degree
5 of education and training of the supervised personnel, the state of
6 scientific technology available and the necessary degree of supervision of
7 the supervised personnel by dentists.

8 (b) Except as provided pursuant to section 32-1281, only licensed
9 dentists may perform diagnosis and treatment planning, prescribe medication
10 and perform surgical procedures on hard and soft tissues.

11 (c) Only a licensed dentist, or dental hygienist in consultation with
12 a dentist, may perform examinations, oral health assessments and treatment
13 sequencing for dental hygiene procedures.

14 2. Adopt a seal.

15 3. Keep a record of its proceedings and reports.

16 4. Establish a uniform and reasonable standard of minimum educational
17 requirements consistent with the accreditation standards of the American
18 dental association commission on dental accreditation to be observed by
19 dental schools and dental hygiene schools in order to be classified as
20 recognized dental schools or dental hygiene schools.

21 5. Establish a uniform and reasonable standard of minimum educational
22 requirements that are consistent with the accreditation standards of the
23 United States department of education or the council on higher education
24 accreditation and that must be observed by denture technology schools in
25 order to be classified as recognized denture technology schools.

26 6. Determine the reputability and classification of dental schools,
27 dental hygiene schools and denture technology schools in accordance with
28 their compliance with the standard set forth in paragraph 4 or 5 of this
29 subsection, whichever is applicable.

30 7. Determine the eligibility of applicants for examination, examine
31 those found eligible and issue licenses to those who pass the examination.

32 8. Determine the eligibility of applicants for restricted permits and
33 issue restricted permits to those found eligible.

34 9. Pursuant to section 32-1263.02, investigate charges of misconduct
35 on the part of licensees and persons to whom restricted permits have been
36 issued.

37 10. Issue a letter of concern, which is not a disciplinary action, but
38 refers to practices that may lead to a violation and to disciplinary action.

39 11. Issue decrees of censure, fix periods and terms of probation,
40 suspend or revoke licenses, certificates and restricted permits, as the facts
41 may warrant, and reinstate licenses, certificates and restricted permits in
42 proper cases.

43 12. Collect and disburse monies.

1 13. Perform all other duties that are necessary to enforce this chapter
2 and that are not specifically or by necessary implication delegated to
3 another person.

4 14. Issue a license to an applicant who is a graduate of a dental
5 school that is not recognized by the board but who satisfies the requirements
6 of section 32-1232.

7 15. Establish criteria for the renewal of permits issued pursuant to
8 board rules relating to general anesthesia and sedation.

9 B. The board may:

10 1. Sue and be sued.

11 2. Issue subpoenas, including subpoenas to the custodian of patient
12 records, compel attendance of witnesses, administer oaths and take testimony
13 concerning all matters within its jurisdiction. If a person refuses to obey
14 a subpoena issued by the board, the refusal shall be certified to the
15 superior court and proceedings shall be instituted for contempt of court.

16 3. Adopt rules:

17 (a) Prescribing requirements for continuing education for renewal of
18 all licenses issued pursuant to this chapter.

19 (b) Prescribing educational and experience prerequisites for the
20 administration of intravenous or intramuscular drugs for the purpose of
21 sedation or for use of general anesthetics in conjunction with a dental
22 treatment procedure.

23 (c) Prescribing requirements for obtaining licenses for disabled or
24 retired licensees, **INCLUDING THE TRIENNIAL LICENSE RENEWAL FEE.**

25 4. Hire consultants to assist the board in the performance of its
26 duties and employ persons to provide investigative, professional and clerical
27 assistance as it deems necessary.

28 5. Contract with other state or federal agencies as required to carry
29 out the purposes of this chapter.

30 6. Order and evaluate physical, psychological, psychiatric and
31 competency testing of licensed dentists and dental hygienists and certified
32 denturists and candidates for licensure and certification as the board
33 determines necessary.

34 C. Members of the board are personally immune from liability with
35 respect to all acts done and actions taken in good faith and within the scope
36 of their authority.

37 D. The board by rule shall require that a licensee obtain a permit for
38 the application of general anesthesia, semiconscious sedation or conscious
39 sedation, shall establish and collect a fee of not more than three hundred
40 dollars to cover administrative costs connected with issuing the permit and
41 shall conduct inspections to assure compliance.

42 E. The board by rule may establish and collect fees for license
43 verification, board meeting agendas and minutes, published lists and mailing
44 labels.

1 Sec. 3. Section 32-1231, Arizona Revised Statutes, is amended to read:

2 32-1231. Persons not required to be licensed

3 ~~Nothing in~~ This chapter ~~shall be construed to~~ DOES NOT prohibit:

4 1. A dentist OR DENTAL HYGIENIST WHO IS officially employed in the
5 service of the United States from practicing dentistry in ~~his~~ THE DENTIST'S
6 OR DENTAL HYGIENIST'S official capacity, within the scope of ~~his~~ THAT
7 PERSON'S authority, ~~upon~~ ON persons enlisted in, directly connected with, or
8 under the immediate control of some branch of service of the United States.

9 2. An ~~interne~~ INTERN or student of dentistry OR DENTAL HYGIENE from
10 operating in the clinical departments or laboratories of a recognized dental
11 school, DENTAL HYGIENE SCHOOL or hospital under supervision of a dentist.

12 3. An unlicensed person from performing for a licensed dentist merely
13 mechanical work ~~upon~~ ON inert matter not within the oral cavity in the
14 construction, making, alteration or repairing of any artificial dental
15 substitute or any dental restorative or corrective appliance, ~~when~~ IF the
16 casts or impressions for ~~such~~ THAT work have been furnished by a licensed
17 dentist and the work is directly supervised by the dentist for whom done or
18 under a written authorization signed by ~~him~~ THE DENTIST, but the burden of
19 proving ~~such~~ THAT written authorization or direct supervision ~~shall be upon~~
20 IS ON the person charged with having violated this provision.

21 4. A clinician not licensed in this state from giving demonstrations,
22 before bona fide dental societies, study clubs and groups of professional
23 students, that are free to the persons on whom made.

24 5. The state director of dental public health from performing ~~his~~ THE
25 DIRECTOR'S administrative duties as prescribed by law.

26 6. A dentist OR DENTAL HYGIENIST to whom a restricted permit has been
27 issued from practicing dentistry OR DENTAL HYGIENE in this state as provided
28 in ~~section~~ SECTIONS 32-1237 AND 32-1292.

29 7. A dentist OR DENTAL HYGIENIST WHO IS not practicing on the public
30 at large from practicing in a recognized dental school or a recognized dental
31 hygiene school.

32 Sec. 4. Section 32-1232, Arizona Revised Statutes, is amended to read:

33 32-1232. Qualifications of applicant; application; fee

34 A. An applicant for licensure shall be of good moral character, ~~shall~~
35 meet the requirements of section 32-1233 and ~~shall~~ hold a diploma from a
36 recognized dental school. ~~If the school is not recognized, the candidate~~
37 ~~shall meet the requirements of subsection B of this section.~~

38 ~~B. A candidate who is a graduate of a dental school that is not~~
39 ~~recognized by the board shall meet the examination requirements of this~~
40 ~~article and shall do all of the following:~~

41 ~~1. Present evidence of completion of a two year program in clinical~~
42 ~~dentistry at a dental school accredited by the American dental association~~
43 ~~commission on accreditation.~~

44 ~~2. Pass parts I and II of the national dental board examinations.~~

~~3. Have passed the western regional examining board examination within the last five years.~~

~~4. Demonstrate to the satisfaction of the board an ability to read, write, speak, understand and be understood in the English language.~~

~~C.~~ B. Each candidate shall submit a written application to the board accompanied by a nonrefundable Arizona dental jurisprudence examination fee of three hundred dollars. The board shall waive this fee for candidates who are holders of valid restricted permits.

~~D.~~ C. The board may deny an application for a license, an application to take an examination for a license or an application for a restricted permit if the applicant:

1. Committed any act that would be cause for censure, probation or suspension or revocation of a license under this chapter.

2. While unlicensed, committed or aided and abetted the commission of any act for which a license is required by this chapter.

3. Knowingly made any false statement in the application.

4. Had a license to practice dentistry revoked by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction AND that constitutes unprofessional conduct pursuant to this chapter.

5. Is currently under suspension or restriction by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction AND that constitutes unprofessional conduct pursuant to this chapter.

6. Surrendered, relinquished or gave up a license to practice dentistry in lieu of disciplinary action by a dental regulatory board in another jurisdiction in the United States for an act that occurred in that jurisdiction AND that constitutes unprofessional conduct pursuant to this chapter.

~~E.~~ D. The board shall suspend an application for a license, an application to take an examination for a license or an application for a restricted permit if the applicant is currently under investigation by a dental regulatory board in another jurisdiction. The board shall not issue or deny a license to the applicant until the investigation is resolved.

Sec. 5. Section 32-1235, Arizona Revised Statutes, is amended to read:

32-1235. Reinstatement of license; application for previously denied license

A. On written application the board may issue a new license or certificate to a dentist, dental hygienist or denturist whose license or certificate was previously suspended or revoked by the board or surrendered by the applicant if the applicant demonstrates to the board's satisfaction that the applicant is completely rehabilitated with respect to the conduct that was the basis for the suspension, revocation or surrender. In making its decision, the board shall determine:

1 1. That the applicant has not engaged in any conduct during the
2 suspension, revocation or surrender period that would have constituted a
3 basis for revocation pursuant to section 32-1263.

4 2. If a criminal conviction was a basis for the suspension, revocation
5 or surrender, that the applicant's civil rights have been fully restored
6 pursuant to statute or any other applicable recognized judicial or
7 gubernatorial order.

8 3. That the applicant has made restitution to any aggrieved person as
9 ordered by a court of competent jurisdiction.

10 4. That the applicant demonstrates any other standard of
11 rehabilitation the board determines is appropriate.

12 B. Except as provided in subsection C of this section, a person may
13 not submit an application for reinstatement less than five years after the
14 date of suspension, revocation or surrender.

15 C. The board shall vacate its previous order to suspend or revoke a
16 license or certificate if that suspension or revocation was based on a
17 conviction of a felony or an offense involving moral turpitude and that
18 conviction has been reversed on appeal. The person may submit an application
19 for reinstatement as soon as the court enters the reversal.

20 D. An applicant for reinstatement must comply with all initial
21 licensing or certification requirements prescribed by this chapter.

22 E. A person whose application for a license or certificate has been
23 denied for failure to meet academic requirements may apply for licensure or
24 certification not less than two years after the denial.

25 F. A person whose application for a license has been denied pursuant
26 to section 32-1232, subsection ~~D~~ C may apply for licensure not less than
27 five years after the denial.

28 Sec. 6. Section 32-1236, Arizona Revised Statutes, is amended to read:

29 32-1236. Dentist triennial licensure; forfeiture of license;
30 reinstatement; license for each place of business;
31 notice of change of address; penalties

32 A. On or before June 30 of every third year, every licensed dentist
33 shall submit to the board a passport size photograph taken of the dentist
34 within the previous six months and pay a fee of six hundred fifty dollars.
35 **THIS REQUIREMENT DOES NOT APPLY TO A DISABLED OR RETIRED DENTIST.**

36 B. A person applying for licensure for the first time in this state
37 shall pay a prorated fee for the period remaining until the next June 30.
38 This fee shall not exceed one-third of the fee established pursuant to
39 subsection A. Subsequent licensure renewal shall be conducted pursuant to
40 this section.

41 C. A person who fails to pay a fee prescribed by this section forfeits
42 the license. A license may be reinstated in the fiscal year in which it is
43 forfeited by submitting a written application with payment of the fee plus a
44 penalty of one hundred dollars. During the second fiscal year following
45 forfeiture, reinstatement may be effected by submitting a written application

1 and payment of the fees and all accumulated penalty fees. If a person fails
2 to pay the fees for reinstatement before the beginning of the third fiscal
3 year following the forfeiture of the license, the board shall require that
4 person to successfully complete the regular examination before the board
5 reinstates the license. Whenever issued, reinstatement is as of the date of
6 application and entitles the applicant to licensure only for the remainder of
7 the applicable three year period.

8 D. A LICENSEE MUST PROVIDE THE BOARD WITH A PRIMARY MAILING ADDRESS IN
9 WRITING. IF THE PRIMARY MAILING ADDRESS IS A POST OFFICE BOX, A HOME ADDRESS
10 OR A MAIL CENTER, THE LICENSEE MUST PROVIDE A PHYSICAL OFFICE ADDRESS TO THE
11 BOARD IN WRITING.

12 ~~D.~~ E. A licensee maintaining more than one place of practice shall
13 obtain from the board a duplicate license for each office. A fee set by the
14 board shall be charged for each duplicate license. The licensee shall notify
15 the board IN WRITING within ten days of opening the additional place or
16 places of practice. The board shall impose a penalty of fifty dollars for
17 failure to notify the board.

18 ~~E.~~ F. A licensee who changes the licensee's PRIMARY MAILING ADDRESS
19 OR office address shall, within ten days, notify the board of that change IN
20 WRITING. The board shall impose a penalty of fifty dollars if a licensee
21 fails to notify the board of the change within that time. The board shall
22 increase the penalty imposed to one hundred dollars if a licensee fails to
23 notify it of the change within thirty days.

24 Sec. 7. Section 32-1264, Arizona Revised Statutes, is amended to read:

25 32-1264. Maintenance of records

26 A. A person licensed or certified pursuant to this chapter shall make
27 and maintain legible written records concerning all diagnosis, evaluation and
28 treatment of each patient of record. A licensee or certificate holder shall
29 maintain records stored or produced electronically in retrievable paper form.
30 These records shall include:

31 1. All treatment notes, including current health history and clinical
32 examinations.

33 2. Prescription and dispensing information, including all drugs,
34 medicaments and dental materials used for patient care.

35 3. Diagnosis and treatment planning.

36 4. Dental and periodontal charting. Specialist charting must include
37 areas of requested care and notation of visual oral examination describing
38 any areas of potential pathology or radiographic irregularities.

39 5. All radiographs.

40 B. Records shall be available for review and for treatment purposes to
41 the dentist, dental hygienist or denturist providing care.

42 C. On request, the licensee or certificate holder shall ~~make these~~
43 ALLOW PROPERLY AUTHORIZED BOARD PERSONNEL TO HAVE ACCESS TO THE LICENSEE'S OR
44 CERTIFICATE HOLDER'S BUSINESS PREMISES TO CONDUCT AN INSPECTION AND MUST MAKE

1 THE LICENSEE'S OR CERTIFICATE HOLDER'S records, BOOKS AND DOCUMENTS available
2 to the board as part of an investigation process.

3 D. On a patient's request, that patient's dentist, dental hygienist or
4 denturist shall transfer legible and diagnostic quality copies of that
5 patient's records to another licensee or certificate holder or that patient.
6 The patient may be charged for the reasonable costs of copying and forwarding
7 these records.

8 E. UNLESS OTHERWISE REQUIRED BY LAW, A PERSON LICENSED OR CERTIFIED
9 PURSUANT TO THIS CHAPTER MUST RETAIN THE ORIGINAL OR A COPY OF A PATIENT'S
10 DENTAL RECORDS AS FOLLOWS:

11 1. IF THE PATIENT IS AN ADULT, FOR AT LEAST SIX YEARS AFTER THE LAST
12 DATE THE ADULT PATIENT RECEIVED DENTAL SERVICES FROM THAT PROVIDER.

13 2. IF THE PATIENT IS A CHILD, FOR AT LEAST THREE YEARS AFTER THE
14 CHILD'S EIGHTEENTH BIRTHDAY OR FOR AT LEAST SIX YEARS AFTER THE LAST DATE THE
15 CHILD RECEIVED DENTAL SERVICES FROM THE PROVIDER, WHICHEVER OCCURS LATER.

16 Sec. 8. Section 32-1281, Arizona Revised Statutes, is amended to read:

17 32-1281. Practicing as dental hygienist; supervision
18 requirements; definitions

19 A. A person is deemed to be practicing as a dental hygienist if the
20 person does any of the acts or performs any of the operations included in the
21 general practice of dental hygienists, dental hygiene and all related and
22 associated duties.

23 B. Only a licensed dental hygienist or dentist may perform the
24 following:

25 1. Prophylaxis.

26 2. Scaling.

27 3. Closed subgingival curettage.

28 4. Root planing.

29 5. Administering local anesthetics and nitrous oxide.

30 6. Placing of periodontal sutures as prescribed in subsection F of
31 this section.

32 7. Examining the oral cavity and surrounding structures.

33 8. Periodontal examination.

34 9. Recording of clinical findings.

35 10. Compiling case histories.

36 C. A licensed dental hygienist may:

37 1. Expose and process dental radiographs.

38 2. Perform all functions authorized and deemed appropriate for dental
39 assistants.

40 D. The board by rule shall prescribe the circumstances under which a
41 licensed dental hygienist may:

42 1. Apply preventive and therapeutic agents, used in relation to dental
43 hygiene procedures, to the hard and soft tissues.

2. Use emerging scientific technology and prescribe the necessary training, experience and supervision to operate newly developed scientific technology. ~~A DENTIST WHO SUPERVISES A DENTAL HYGIENIST WHOSE DUTIES INCLUDE THE USE OF EMERGING SCIENTIFIC TECHNOLOGY MUST HAVE TRAINING ON THE USE OF THE EMERGING TECHNOLOGY THAT IS EQUAL TO OR GREATER THAN THE TRAINING THE DENTAL HYGIENIST IS REQUIRED TO OBTAIN.~~

3. Perform other procedures not specifically authorized by this section.

E. Except as provided in subsections F and H of this section, a dental hygienist shall practice under the general supervision of a dentist licensed pursuant to this chapter.

F. Dental hygienists shall practice under the direct supervision of a dentist licensed pursuant to this chapter when performing the following procedures and after completing a course of study recognized by the board:

1. Administering local anesthetics.

2. Administering nitrous oxide analgesia.

3. Placing an interrupted suture interdentally to secure soft tissue papillae that may have inadvertently become displaced during root planing or closed curettage procedures performed by the dental hygienist, except that a dental hygienist may not position and suture soft tissue flaps that are reflected for surgical access and treatment. This procedure applies only to a dental hygienist who is permitted to perform periodontal suturing on or before July 31, 2004.

G. A dental hygienist may perform dental hygiene procedures in the following settings:

1. On a patient of record of a dentist within that dentist's office.

2. Except as prescribed in section 32-1289, in a health care facility, nursing home, public health agency or institution or public, private or charter school on patients who have been examined by a dentist within the previous year.

3. In a homebound setting on patients who have been examined by a dentist within the previous year.

H. A dental hygienist may provide dental hygiene services under an affiliated practice relationship with a dentist as prescribed in section 32-1289.

I. For the purposes of this article:

1. "Direct supervision" means that the dentist is present in the office while the dental hygienist is treating a patient and is available for consultation regarding procedures that the dentist authorizes and for which ~~he~~ ~~THE DENTIST~~ is responsible.

2. "General supervision" means that the dentist is available for consultation, whether or not the dentist is in ~~his~~ ~~THE DENTIST'S~~ office, over procedures ~~which~~ ~~THAT~~ the dentist has authorized and for which the dentist remains responsible.

Sec. 9. Section 32-1287, Arizona Revised Statutes, is amended to read:

32-1287. Dental hygienist triennial licensure; forfeiture of license; reinstatement; notice of change of address; penalties

A. On or before June 30 of every third year, every licensed dental hygienist shall pay a license renewal fee of three hundred twenty-five dollars. **THIS REQUIREMENT DOES NOT APPLY TO A DISABLED OR RETIRED DENTAL HYGIENIST.**

B. A person applying for a license for the first time in this state shall pay a prorated fee for the period remaining until the next June 30. This fee shall not exceed one-third of the fee established pursuant to subsection A. Subsequent registrations shall be conducted pursuant to this section.

C. A person who fails to pay a fee prescribed by this section forfeits the license. A license may be reinstated in the fiscal year in which it is forfeited by submitting a written application with payment of the fee plus a penalty of one hundred dollars. During the second fiscal year following forfeiture, reinstatement may be effected by submitting a written application and payment of the fees and all accumulated penalty fees. If a person fails to pay the fees for reinstatement before the beginning of the third fiscal year following forfeiture of the license, the board shall require that the person successfully complete the regular examination before the board reinstates the license. Whenever issued, reinstatement is as of the date of application and entitles the applicant to licensure only for the remainder of the applicable three year period.

D. A licensee shall notify the board in writing within ten days after the licensee changes the **PRIMARY MAILING** address listed with the board. The board shall impose a penalty of fifty dollars if a licensee fails to notify the board of the change within that time. The board shall increase the penalty imposed to one hundred dollars if a licensee fails to notify it of the change within thirty days.

Sec. 10. Title 32, chapter 11, article 4, Arizona Revised Statutes, is amended by adding section 32-1292.02, to read:

32-1292.02. Grounds for denial of application

A. THE BOARD MAY DENY AN APPLICATION FOR LICENSURE, AN APPLICATION TO TAKE AN EXAMINATION OR AN APPLICATION FOR A RESTRICTED PERMIT IF THE APPLICANT:

1. COMMITTED AN ACT THAT WOULD BE CAUSE FOR CENSURE, PROBATION OR SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS CHAPTER.

2. WHILE UNLICENSED, COMMITTED OR AIDED AND ABETTED THE COMMISSION OF AN ACT FOR WHICH A LICENSE IS REQUIRED BY THIS CHAPTER.

3. KNOWINGLY MADE ANY FALSE STATEMENT IN THE APPLICATION.

4. HAD A LICENSE TO PRACTICE DENTAL HYGIENE REVOKED BY A REGULATORY BOARD IN ANOTHER JURISDICTION IN THE UNITED STATES FOR AN ACT THAT OCCURRED

1 IN THAT JURISDICTION AND THAT CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO
2 THIS CHAPTER.

3 5. IS CURRENTLY UNDER SUSPENSION OR RESTRICTION BY A REGULATORY BOARD
4 IN ANOTHER JURISDICTION IN THE UNITED STATES FOR AN ACT THAT OCCURRED IN THAT
5 JURISDICTION AND THAT CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO THIS
6 CHAPTER.

7 6. SURRENDERED, RELINQUISHED OR GAVE UP A LICENSE TO PRACTICE DENTAL
8 HYGIENE IN LIEU OF DISCIPLINARY ACTION BY A REGULATORY BOARD IN ANOTHER
9 JURISDICTION IN THE UNITED STATES FOR AN ACT THAT OCCURRED IN THAT
10 JURISDICTION AND THAT CONSTITUTES UNPROFESSIONAL CONDUCT PURSUANT TO THIS
11 CHAPTER.

12 B. THE BOARD SHALL SUSPEND AN APPLICATION FOR A LICENSE, AN
13 APPLICATION TO TAKE AN EXAMINATION FOR A LICENSE OR AN APPLICATION FOR A
14 RESTRICTED PERMIT IF THE APPLICANT IS CURRENTLY UNDER INVESTIGATION BY A
15 DENTAL REGULATORY BOARD IN ANOTHER JURISDICTION. THE BOARD SHALL NOT ISSUE
16 OR DENY A LICENSE TO THE APPLICANT UNTIL THE INVESTIGATION IS RESOLVED.

17 Sec. 11. Section 32-1297.06, Arizona Revised Statutes, is amended to
18 read:

19 32-1297.06. Denturist certification; forfeiture of certificate;
20 reinstatement; certificate for each place of
21 business; notice of change of address; penalties

22 A. On or before June 30 of every third year, every certified denturist
23 shall pay a certificate renewal fee of three hundred dollars. THIS
24 REQUIREMENT DOES NOT APPLY TO A DISABLED OR RETIRED DENTURIST.

25 B. A person applying for a certificate for the first time in this
26 state shall pay a prorated fee for the period remaining until the next
27 June 30. This fee shall not exceed one-third of the fee established pursuant
28 to subsection A. Subsequent certifications shall be conducted pursuant to
29 this section.

30 C. A person who does not pay a fee as prescribed by this section
31 forfeits the certificate. A certificate may be reinstated in the fiscal year
32 in which it is forfeited by submitting a written application with payment of
33 the renewal fee plus a one hundred dollar penalty. During the second fiscal
34 year following forfeiture, reinstatement may be effected by submitting a
35 written application and payment of the fees and all accumulated penalty fees.
36 If a person fails to pay the fees for reinstatement before the beginning of
37 the third fiscal year following the forfeiture of that person's certificate,
38 the board shall require that the person successfully complete the regular
39 examination before the board reinstates the certificate. Whenever issued,
40 reinstatement is as of the date of application and entitles the applicant to
41 certification only for the remainder of the applicable three year period.

42 D. A CERTIFICATE HOLDER MUST PROVIDE THE BOARD WITH A PRIMARY MAILING
43 ADDRESS IN WRITING. IF THE PRIMARY MAILING ADDRESS IS A POST OFFICE BOX, A
44 HOME ADDRESS OR A MAIL CENTER, THE CERTIFICATE HOLDER MUST PROVIDE A PHYSICAL
45 OFFICE ADDRESS TO THE BOARD IN WRITING.

1 ~~D.~~ E. A certificate holder maintaining more than one place of
2 practice shall obtain from the board a duplicate certificate for each office.
3 The board shall set and charge a fee for each duplicate certificate. A
4 certificate holder shall notify the board in writing within ten days of
5 opening an additional place of practice.

6 ~~E.~~ F. A certificate holder shall notify the board in writing within
7 ten days after changing ~~an~~ A PRIMARY MAILING ADDRESS OR OFFICE address listed
8 with the board. The board shall impose a fifty dollar penalty if a
9 certificate holder fails to notify the board of the change within that
10 time. The board shall increase the penalty imposed to one hundred dollars if
11 a certificate holder fails to notify it of the change within thirty days.

12 Sec. 12. Title 32, chapter 11, article 5, Arizona Revised Statutes, is
13 amended by adding section 32-1297.10, to read:

14 32-1297.10. Dentures; identification

15 A. EVERY COMPLETE UPPER AND LOWER DENTURE FABRICATED BY A DENTIST
16 LICENSED PURSUANT TO THIS CHAPTER OR FABRICATED PURSUANT TO A DENTIST'S WORK
17 ORDER OR BY A DENTURIST UNDER THE DENTIST'S DIRECTION OR SUPERVISION MUST BE
18 MARKED WITH THE PATIENT'S CHOICE OF THE PATIENT'S LAST NAME AND FIRST INITIAL
19 OR THE PATIENT'S SOCIAL SECURITY NUMBER, OR BOTH.

20 B. THE MARKINGS MUST BE DONE DURING FABRICATION AND MUST BE PERMANENT,
21 LEGIBLE AND COSMETICALLY ACCEPTABLE.

22 C. THE EXACT LOCATION OF THE MARKINGS AND THE METHODS USED TO APPLY OR
23 IMPLANT THE MARKINGS MUST BE DETERMINED BY THE DENTIST OR THE DENTAL
24 LABORATORY FABRICATING THE PROSTHESIS.

25 D. A DENTURE FABRICATED BEFORE THE EFFECTIVE DATE OF THIS SECTION MUST
26 BE MARKED PURSUANT TO THIS SECTION WHEN IT IS REBASED.